

**REMARKS**

Claims 1, 20, 21 and 40 are amended herein. Support for the amendment is found, for example, in the Figures and the original claims.

**I. Improper Final Rejection**

Applicants note initially that the Office Action Summary indicates that this Office Action is a final rejection. However, this is the first Office Action after the filing of an RCE, and a first action after the filing of an RCE can be made final only where all claims (1) are drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment and (2) could have been finally rejected on the grounds and art of record in the next Office Action if they had been entered in the application prior to entry under Rule 114. See MPEP §706.07(b).

In the present case all claims are not drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment, because the invention prior to entry of the Rule 114 Amendment did not require that an incident light from the illuminator is transmitted to said optical path control layer through the visual-side substrate. For at least this reason, making the first Action final after filing an RCE is improper.

In regard to item (2) , the Examiner relies on the same disclosure of Masuda, but raises new grounds of rejection with respect to the newly added elements in the claims. Therefore, for this additional reason making the first Action final after filing an RCE is improper.

Notwithstanding the above, Applicants request continued examination and submit an RCE transmittal letter and the required fee under 37 C.F.R. § 1.17 (e) in view of the U.S.P.T.O. rules to take effect November 1, 2007, which precludes Applicants from filing an RCE as a matter of right since one RCE was previously filed in this application.

## **II. Provisional Obviousness-Type Double Patenting Rejections**

The Examiner has maintained the provisional rejections of claims 1 and 20 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over: (1) Claims 1-8 of co-pending application 09/898,060; (2) Claims 1-22 of co-pending application no. 09/878,268; and (3) Claims 1-38 of co-pending application 10/225,532.

As these are provisional rejections, Applicants elect to defer addressing their merits. Such deferral is clearly contemplated by MPEP § 804(I)(B), which states that a "provisional" double patenting rejection is designed simply to make Applicants aware of a potential problem.

Applicants reserve the right to address the merits of the provisional double patenting rejections or submit a terminal disclaimer(s) to obviate the rejections.

## **III. Claim Rejections under 35 U.S.C. § 103**

The Examiner has maintained the following rejections under 35 U.S.C. § 103(a): (1) Claims 1-8, 12-14, 20-28, 32-34, and 40-44 as being unpatentable over Masuda et al. (US 6,340,999; hereinafter "Masuda") in view of Egawa et al. (US 6,295,104 B1; hereinafter "Egawa"); (2) Claims 13-14 and 33-34 as being unpatentable over Masuda in view of Egawa and Evanicky et al. (US 6,243,068 B1; hereinafter "Evanicky"); (3) Claims 9-11, 15-17, 29-31, and 35-37 as being unpatentable over Masuda in view of Egawa and Yano et al. (JP 11-326903; hereinafter "Yano"); and (4) Claims 18-19 and 38-39 as being unpatentable over Masuda in view of Egawa and Nemoto et al. (US 6,456,344; hereinafter "Nemoto").

Basically, it is the Examiner's position that the light guide 3 of Masuda is part of the visual-side substrate, i.e., the visual-side substrate is comprised of the light guide and the integral optical path control layer formed into its uppermost layer.

Applicants respectfully traverse the rejection for the reasons of record which are incorporated herein. Additionally, without conceding the merits of the rejection, independent claims 1, 20, 21 and 40 are amended herein to recite that the optical path control layer is distinct from the transparent substrate of the visual-side substrate. Claims 1 and 20 are further amended to recite that the illuminator is disposed on the side surface of the transparent substrate of the visual-side substrate. Thus, it is clear that the optical path control layer is distinct from the transparent substrate of the visual-side. This feature is not taught or suggested by Masuda for the reasons of record, which are incorporated herein, and for the reasons set forth herein.

In view of the amendment to the claims, the Examiner would consider the light guide of Masuda as the optical path control layer of the present invention and the glass substrate 5a of Masuda as the transparent substrate of the visual-side substrate of the present invention, respectively. Therefore, Masuda fails to disclose, teach or suggest at least the features that the illuminator is disposed on one of the side surfaces of the transparent substrate of the visual-side substrate and an incident light from the illuminator is transmitted to the optical path control layer through the visual-side substrate.

Further, Egawa, which is cited in connection with an angle of slopes, does not remedy the deficiencies of Masuda. Therefore, the presently claimed subject matter is not disclosed or suggested, even when the disclosures of Masuda and Egawa are combined in the manner proposed by the Examiner. None of the other secondary references cures the deficiency noted herein with respect to Masuda and Egawa. Thus, the cited references, whether taken alone or in combination, do not render the present invention obvious.


Accordingly, applicants respectfully request withdrawal of the §103 rejections.

#### **IV. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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